

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	NO. 05-90-274
APPLICATION FOR EMT-I)	DIA NO. 91DPHMB-55
CERTIFICATION OF)	
CHRISTINE K. MAIDEN,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Applicant)	DECISION AND ORDER
)	OF THE PANEL

TO: CHRISTINE K. MAIDEN

On May 29, 1991, the Iowa Board of Medical Examiners (Board) notified Christine K. Maiden (applicant) that they had voted to deny her application for Iowa EMT-I certification. On June 26, 1991, the applicant filed a Notice of Appeal from the denial of licensure.

A Notice of Hearing was issued on August 28, 1991. The hearing was rescheduled twice at the applicant's request. On November 19, 1992, an Order was issued setting the hearing for December 16, 1992, at 3:00 p.m.

The hearing was held before a panel of the Board on December 16, 1992, at 3:00 p.m. in the second floor hearing room, Executive Hills West, Des Moines, Iowa. The panel included Edra Broich, Johanna Whalen, M.D., and James Collins, M.D. The Applicant did not appear, nor was she represented by counsel. The State was represented by Rose Vasquez, Assistant Attorney General. The hearing was recorded by a certified court reporter, and was open to the public. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided and was directed to prepare this decision of the panel.

THE RECORD

The record includes the denial of licensure, Notice of Appeal, Notice of Hearing, Requests for Continuance and Order for Continuance, the testimony of the witnesses at the hearing, and the following exhibits:

- Exhibit A: Amended Proposed Decision, DIA No. 91DPH-8
- Exhibit B: Proposed Decision, DIA No. 91DPH-8
- Exhibit C: Stipulation dated September 2, 1992
- Exhibit D: EMS Certification Application
- Exhibit E: Dickinson County District Court Records, Attachment A to Investigator's Report

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Exhibit F: Applicant's Alcoholism and Drug Treatment Counseling Reports, Attachment B to Investigator's Report

FINDINGS OF FACT

1. The applicant held an EMT-A (basic care) certification. On April 23, 1990, she applied for EMT-I certification. (testimony of Gary Ireland; Exhibits A, D)
2. The applicant answered "yes" on her application in answer to question 2, "Have you ever been convicted of a serious or aggravated misdemeanor or felony?", striking "aggravated" and "felony." Applicant's affirmative answer led to an investigation. (testimony of Gary Ireland; Exhibits A, D)
3. The investigation revealed that the applicant pled guilty to public intoxication on April 18, 1986, pled guilty to public intoxication on January 20, 1987, pled guilty to operating while under the influence on July 6, 1989, and pled guilty to public intoxication on August 30, 1990. (testimony of Gary Ireland, David Smith; Exhibits A, E)
4. The court ordered the applicant to undergo, at her own expense, a substance abuse evaluation at Northwest Iowa Alcoholism and Drug Treatment Unit and follow the recommendations proposed. It was recommended the applicant attend outpatient treatment for educational purposes. Applicant failed numerous appointments and did not successfully complete treatment. (testimony of David Smith; Exhibits A, F)
5. On May 29, 1991, the Board notified the applicant by certified mail that they had voted to deny her application for EMT-I certification due to her misrepresentations of her status as an EMT-I student and her habitual intoxication. Applicant appealed. (official record)
6. The applicant had also filed an application to renew her EMT-A certification with the Iowa Department of Public Health (DPH). On May 30, 1991, she was notified that her renewal application was denied. The applicant appealed. (testimony of Gary Ireland; Exhibit A)
7. A current EMT-A certificate is a prerequisite to eligibility for an EMT-I certificate. (testimony of Gary Ireland)
8. On September 2, 1992, a hearing was held concerning DPH's denial of the renewal application on the EMT-A certification. The applicant did not appear, but her attorney submitted a written stipulation which conceded that the state had sufficient evidence

to establish that the applicant suffered from habitual intoxication. (testimony of Gary Ireland; Exhibits A, C)

9. An administrative law judge issued a proposed decision affirming the action of DPH denying renewal of the applicant's basic emergency medical care certificate. In addition, it was ordered that before applicant could apply for reinstatement of her EMT-A certificate she must successfully complete a substance abuse treatment program. An Amended Proposed Decision was later issued to correct a typographical error. (testimony of Gary Ireland; Exhibits A, B)

10. The applicant did not appeal the proposed decision and it became a final decision. (testimony of Gary Ireland)

11. The Original Notice of Hearing concerning the denial of the EMT-I application was sent to the applicant by restricted certified mail. She signed the return receipt card on September 4, 1991. After several lengthy continuances, an Order rescheduling the hearing was sent to the applicant on November 19, 1992, setting the hearing for December 16, 1992. The applicant failed to appear. (official file)

CONCLUSIONS OF LAW

1. 653 IAC 12.50(9) provides in relevant part:

. . . A written notice of hearing together with a statement of the charges shall be served upon the licensee at least 30 days before said hearing in the manner required for the service of an original notice or by restricted certified mail, return receipt requested.

652 IAC 12.50(21) provides in relevant part:

If a respondent, upon whom a proper notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the board or hearing panel shall proceed with the conduct of the hearing, and the respondent shall be bound by the results of such hearing to the same extent as if the respondent were present.

The applicant was properly served with notice of hearing by restricted certified mail more than thirty (30) days prior to the hearing, and was subsequently notified of a change in the hearing date. The applicant failed to appear, but is bound by this decision as if she had appeared.

2. 641 IAC 132.11(3) provides in relevant part:

132.11(3) The board may deny an application for issuance or renewal of an advanced emergency medical care provider certificate, or suspend or revoke the certificate when it finds that the applicant or certificate holder is guilty of any of the following acts or offenses:

• • •

g. Habitual intoxication.

3. The preponderance of the evidence established that the applicant suffers from habitual intoxication, which is a proper ground for denial of her application for an EMT-I certificate. 641 IAC 132.11(3)(g). The state chose not to present any evidence on the misrepresentation allegation. Moreover, it is noted that since the applicant no longer has a current EMT-A certificate, she is now ineligible for an EMT-I certificate. 641 IAC 132.3(1).

DECISION AND ORDER


It is hereby ORDERED, that when this proposed decision of the panel becomes final, the decision of the Board denying the application of Christine K. Maiden for an EMT-I certificate shall be AFFIRMED.

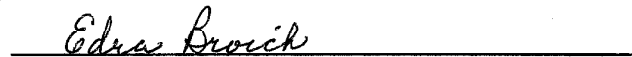
In accordance with 653 IAC 12.50(29), a proposed decision becomes a final decision unless appealed to the Board by a party adversely affected by serving notice of appeal on the executive director within thirty (30) days after service of this proposed decision. The Board may also review a proposed decision on its own motion.

Dated this 27 day of January, 1993

THE PANEL:


Johanna Whalen, M.D.


James Collins, M.D.


Edra Broich

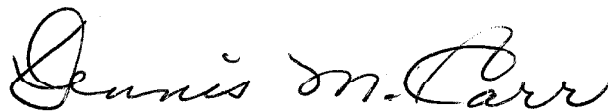
ML/jmm

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE DENIAL *
OF CERTIFICATION TO PRACTICE * ORDER
AS AN ADVANCED EMERGENCY * 05-90-274
MEDICAL CARE PROVIDER *
CHRISTINE K. MAIDEN, APPLICANT *

Now on November 19, 1992, IT IS HEREBY ORDERED that the hearing on the Denial of Certification to Practice as an Advanced Emergency Medical Care Provider in the above entitled cause which was continued, is hereby rescheduled to come on for hearing at 3:00 p.m., Wednesday, December 16, 1992. The hearing will be held in a 2nd floor conference room of the Iowa State Board of Medical Examiners offices located at 1209 East Court Avenue, Des Moines, Iowa.

IOWA STATE BOARD OF MEDICAL EXAMINERS



DENNIS M. CARR
Acting Executive Director
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, IA 50319
telephone: (515) 281-5171

PROOF OF SERVICE

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING INSTRUMENT
AS SERVED UPON ALL PARTIES TO THE ABOVE CAUSE BY DEPOSITING
COPY THEREOF IN THE U.S. MAIL, POSTAGE PREPAID, IN EN-
VELOPES ADDRESSED TO EACH OF THE ATTORNEYS OF RECORD HEREIN
AT THEIR RESPECTIVE ADDRESSES DISCLOSED ON THE PLEADINGS, ON

11-19, 19 92
Marlene J. Brown

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA


* * * * *

IN THE MATTER OF THE DENIAL *
OF CERTIFICATION TO PRACTICE * ORDER
AS AN ADVANCED EMERGENCY * 05-90-274
MEDICAL PROVIDER: *
CHRISTINE KAY MAIDEN, APPLICANT *

* * * * *

Now on this 22nd day of January, 1992, IT IS HEREBY
ORDERED that the hearing on the Denial of Certification to
Practice as an Advanced Emergency Medical Care Provider in the
above entitled cause which was scheduled to come on for hearing
at 11:00 a.m. on January 23, 1992 is now continued until further
order of the Board.

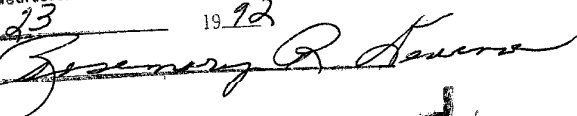
IOWA STATE BOARD OF MEDICAL EXAMINERS


WILLIAM S. VANDERPOOL
Executive Director
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, IA 50319
Telephone: (515) 281-5171

PROOF OF SERVICE

The undersigned certifies that the foregoing in-
strument was served upon all parties to the above
cause by depositing a copy thereof in the U.S. Mail,
postage prepaid, in envelopes addressed to each of
the attorneys of record herein at their respective
addresses disclosed on the pleadings, on

1

1/23 1992


**BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA**

- - - - -

IN THE MATTER OF THE DENIAL :
OF CERTIFICATION TO PRACTICE : MOTION FOR CONTINUANCE
AS AN ADVANCED EMERGENCY CARE : FILE NO: 05-90-274
PROVIDER, :
CHRISTINE KAY MAIDEN, Applicant.:
- - - - -


COMES NOW Christine Kay Maiden by her attorney, Donald A. Beneke, and for this Motion states:

1). Hearing in this matter has been scheduled for January 23, 1992 at 11:00 A.M.

2). The applicant has made a proposal that this matter be settled through a Consent Agreement. It is anticipated that such Consent Agreement will completely address the concerns raised by the Medical Board.

WHEREFORE, the applicant requests that this matter be continued pending submission of the above-referenced Consent Agreement.

Dated: January 22, 1992



Donald A. Beneke
309 North Main
Pocahontas, IA 50574
Phone: (712)-335-3515

NOTE: This document is being transmitted by FAX. The original document will follow.

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE DENIAL *
OF CERTIFICATION TO PRACTICE * ORDER
AS AN ADVANCED EMERGENCY * 05-90-274
MEDICAL PROVIDER: *
CHRISTINE KAY MAIDEN, APPLICANT *

* * * * *


Now on this 14th day of January, 1992, IT IS
HEREBY ORDERED that the hearing on the Denial of Certification to
Practice as an Advanced Emergency Medical Care Provider in the
above entitled cause which was scheduled to come on for hearing
at 1:30 p.m., on January 23, 1992, is hereby rescheduled to begin
at 11:00 a.m. on January 23, 1992. The hearing will be held in
the ground floor conference room, Grimes State Office Building,
State Capitol Complex, Des Moines, Iowa.

IOWA STATE BOARD OF MEDICAL EXAMINERS

PROOF OF SERVICE

The undersigned certifies that the foregoing in-
strument was served upon all parties to the above
cause by depositing a copy thereof in the U.S. Mail,
postage prepaid, in envelopes addressed to each of
the attorneys of record herein at their respective
addresses disclosed on the pleadings, on

1-14 1992
Margene J. Brown



WILLIAM S. VANDERPOOL
Executive Director
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, IA 50319
Telephone: (515) 281-5171

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA


* * * * *

IN THE MATTER OF THE DENIAL	:	
OF CERTIFICATION TO PRACTICE	:	
AS AN ADVANCED EMERGENCY CARE	:	ORDER
PROVIDER ,	:	
CHRISTINE K. MAIDEN ,	:	
APPLICANT	:	

* * * * *

NOW on this 23rd day of December, 1991, IT IS HEREBY ORDERED that the hearing on the denial of certification to practice as an Advanced Emergency Medical Care Provider of Christine K. Maiden is scheduled for 1:30 p.m., Thursday, January 23, 1992. The hearing will be held in the ground floor conference room Grimes State Office Building, State Capitol Complex, Des Moines, Iowa.

IOWA STATE BOARD OF MEDICAL EXAMINERS


WILLIAM S. VANDERPOOL, EXECUTIVE DIRECTOR
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, Iowa 50319
Telephone: (515) 281-5171

Copies to:

Christine K. Maiden
Donald A. Beneke, Esq.
Rose Vasquez, A.A.G.

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE
APPLICATION FOR EMT-I
CERTIFICATION OF

CHRISTINE K. MAIDEN,

Respondent.

*

*

*

*

NO. 05-90-274

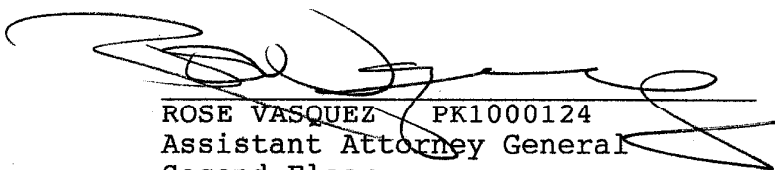
APPEARANCE

COMES NOW the undersigned attorney and enters her appearance
on behalf of the State of Iowa in the above-entitled matter.

Respectfully submitted,

BONNIE J. CAMPBELL
Attorney General of Iowa

JULIE F. POTTORFF
Special Assistant Attorney General


ROSE VASQUEZ PK1000124
Assistant Attorney General
Second Floor
Hoover State Office Building
Des Moines, IA 50319
Telephone: (515) 281-6706

Copy to:

Donald A. Beneke
Attorney at Law
309 N. Main
Pocahontas, IA 50574

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the attorneys of record of all parties in the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa, on the


19th day of August, 1990.


BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE APPLICATION *
FOR EMT-I CERTIFICATION OF * ORDER
CHRISTINE K. MAIDEN * 05-90-274
RESPONDENT *

NOW on this 6th day of September, 1991, IT IS
HEREBY ORDERED that the Complaint and Statement of Charges which
was scheduled to come on for hearing at 1:00 p.m., on
September 26, 1991, is hereby continued until
XXXXXXXXXXXXXXXXXXXXXX further order of the Board.

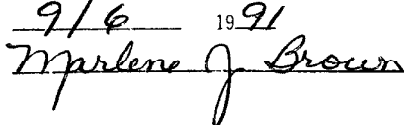
IOWA STATE BOARD OF MEDICAL EXAMINERS



WILLIAM S. VANDERPOOL
Executive Director
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, Iowa 50319
Telephone: (515) 281-5171

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing a copy thereof in the U.S. Mail, postage prepaid, in envelopes addressed to each of the attorneys of record herein at their respective addresses disclosed on the pleadings, on

9/6 1991


BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE :
APPLICATION FOR EMT-I : NOTICE OF HEARING
CERTIFICATION of :
: 05-90-274
CHRISTINE K. MAIDEN :
APPLICANT :

* * * * *

To: Christine K. Maiden

NOW on August 28, 1991, the Iowa State Board of Medical Examiners, under the authority granted by sections 17A.12 and 147A.7 of the 1991 Code of Iowa and 641-132.10(5) et. seq. of the Iowa Administrative Code, and pursuant to notice of appeal filed on June 27, 1991, hereby notifies you that a hearing on the denial of your EMT-I certification will be held on September 26, at 1:00 p.m., 1991, / in the east conference room at the Iowa State Board of Medical Examiners office, 1209 E. Court Avenue, Des Moines, Iowa.

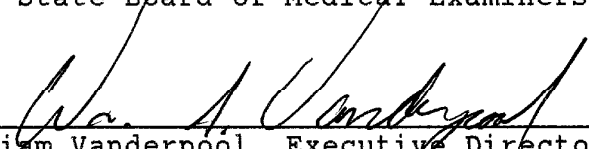
You are also hereby notified that you may appear personally and be represented by counsel at your own expense, with the right to produce evidence in your behalf, to examine and cross-examine witnesses and to examine documentary evidence produced against you. If you fail to appear, the hearing will proceed and a decision will be made.

You are also hereby notified that the office of the Attorney

General is responsible for representation of the public interest in these proceedings. Copies of all pleadings should be served on counsel at the following address:

Julie F. Pottorff
Special Assistant Attorney General
Iowa Department of Justice
Hoover State Office Building
Des Moines, Iowa 50319
(515) 281-6858

Iowa State Board of Medical Examiners

BY: 
William Vanderpool, Executive Director
Iowa State Board of Medical Examiners
1209 East Court Avenue
Des Moines, Iowa 50319-0180
Telephone: (515) 281-5171



TERRY E. BRANSTAD, GOVERNOR

BOARD OF MEDICAL EXAMINERS
WILLIAM S. VANDERPOOL, EXECUTIVE DIRECTOR

May 29, 1991

Christine K. Maiden
R.R. #6, Box 758
Spirit Lake, IA 51360

IN RE: Notice of denial of EMT-I certificate

Dear Ms. Maiden:

On April 11, 1991, the Iowa State Board of Medical Examiners considered your application for Iowa EMT-I certification. Following its review of your application, supporting documentation and other pertinent material and information, the Board voted to deny your application. The Board's action, taken pursuant to the provisions of sections 147A.F of the 1991 Code of Iowa, and 641 I.A.C. 132.11 was based upon the following:

1: On or about August 19, 1990, you misrepresented yourself as an EMT-I student and assisted in providing advanced emergency care to a patient. In doing so you knowingly made misleading, deceptive, untrue or fraudulent representation in the practice of an EMT, and in addition, in providing emergency care for which you were not certified, provides evidence that you violated the provisions of section 147A.11 of the Code of Iowa.

2: Your arrest and conviction on multiple occasions for public offenses involving the use of alcohol and intoxication, and, your use of alcohol in relation to your emergency medical technician training provide evidence that you suffer from habitual intoxication.

Pursuant to the provisions of 641 I.A.C. 132.11(5), you may appeal the denial of certification by serving a notice of appeal in writing to the Board not more than thirty days from the date of this notice. A photocopy of the said rule is attached for your convenience.

Should you have any questions or concerns, please feel free to contact this office.

Sincerely,
WILLIAM S. VANDERPOOL
Executive Director

BY: Dennis M. Carr
Associate Director

DMC/jai

cc: Files 05-90-274
Advanced Care Application
E.M.S.

1209 EAST COURT, EXECUTIVE HILLS WEST / DES MOINES, IOWA 50319-0180 / 515-281-5171

k. Having certification to practice as an advanced emergency medical care provider: revoked or suspended, or having other disciplinary action taken by a licensing or certifying authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

l. A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the board orders otherwise.

132.11(4) The proposed denial, suspension, or revocation shall be considered by a committee of the board consisting of at least two members appointed by the chair of the board. The committee shall advise the executive director of its decision. The executive director shall then notify the applicant of the granting or denial of certification or renewal, or of action to suspend or revoke such certification or renewal. Notices of denial, suspension, or revocation shall be by certified mail, return receipt requested, or by personal service.

132.11(5) Any request for a hearing before the board concerning the denial, suspension, or revocation of certification or renewal shall be submitted by the aggrieved party in writing to the board by certified mail, return receipt requested, within 30 days of the mailing of a notice of intended action by the board. The address is: Iowa State Board of Medical Examiners, State Capitol Complex, Executive Hills West, Des Moines, Iowa 50319.

132.11(6) The board shall prepare the notice of hearing and transmit same to the aggrieved party by certified mail, return receipt requested, at least ten days before the date of the hearing.

132.11(7) The board adopts the rules of the department found in 641—Chapter 173, Iowa Administrative Code, as the procedure for hearings before the board. The board may authorize an administrative law judge to conduct hearings, administer oaths, issue subpoenas, and prepare written findings of fact, conclusions of law, and decisions at the direction of the board. The members of the committee which make the initial decision to deny, suspend, or revoke certification or renewal shall not take part in the hearing panel but may appear as witnesses.

132.11(8) The decision of the board shall be mailed to the aggrieved party by certified mail, return receipt requested, or by personal service.

132.11(9) Any appeal to the district court from denial, suspension, or revocation of such certification or renewal shall be taken within 30 days from the issuance of the decision of the board. Notice of appeal shall be sent to the board by certified mail, return receipt requested, or by personal service. It is not necessary to request a rehearing before the board to appeal to the district court.

132.11(10) The party who appeals a decision of the board to the district court shall pay the cost of the preparation of a transcript of the administrative hearing for the district court.

641—132.12(147A) Denial, suspension, or revocation of training program authorization or renewal—appeal.

132.12(1) The board may deny an application for authorization or renewal of a training program, or suspend or revoke such authorization or renewal if the board finds reason to believe the training program will not or has not been operated in compliance with Iowa Code chapter 147A, or the rules implementing such chapter, or that there is insufficient assurance of adequate protection for the public.

132.12(2) The proposed denial, suspension, or revocation shall be considered by a committee of the board consisting of at least two members appointed by the chair of the board. The committee shall advise the executive director of its decision. The executive director shall then notify the applicant of the granting or denial of authorization or renewal, or of action to suspend or revoke such authorization or renewal. Notices of denial, suspension, or revocation shall be by certified mail, return receipt requested, or by personal service.

132.12(3) Any request for a hearing before the board concerning the denial, suspension, or revocation of training program authorization or renewal shall be submitted by the aggrieved party in writing to the board by certified mail, return receipt requested, within